FILED

JAN 04 2008

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF CALIFORNIA

'08 MJ 8002

UNITED STATES OF AMERICA Plaintiff V Mario PENA Marquez Defendant	Magistrate Case No.: COMPLAINT FOR VIOLATION OF Title 8, U.S.C., Sec., 1326 Attempted Entry After Being Ordered Deported/Removed

The undersigned complainant, being duly sworn, states:

On January 3, 2008, within the Southern District of California, the defendant Mario PENA Marquez, an alien, who previously had been excluded, deported and removed from the United States to Mexico, attempted to enter the United States with the purpose, i.e., conscious desire, to enter the United States at the Calexico Port of Entry without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

And the complainant states that this complaint is based on the attached statement of facts which is incorporated herein by reference.

IZABEL FIGUEROA , CBP
Enforcement Officer

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS DATE 4TH DAY OF JANUARY, 2008.

PETER C. LEWIS
UNITED STATES MAGISTRATE JUDGE

UNITED STATES OF AMERICA
v
Mario PENA Marquez

STATEMENT OF FACTS

The complainant, states that this complaint is based upon the arrest reports of the apprehending officers and the investigation report submitted by Customs Border Protection Enforcement Officer Gustavo Barreto.

On January 3, 2006, at approximately 04:00 A.M., the defendant Mario PENA Marquez arrived at the Calexico Port of Entry via pedestrian primary lanes. Customs Border Protection Officer (CBPO) J. Carp inspected the defendant at the time he applied for entry into the United States. The defendant presented a counterfeit I-551. CBPO J. Carp. Suspected fraud and thus referred the defendant to pedestrian secondary office for further inspection.

In secondary inspection CBPO J. Duffy conducted routine record checks in which IDENT revealed a possible fingerprint match with a person who had been previously deported. PENA-Marquez was escorted to the Port Enforcement Team office for further investigation. Records confirmed that PENA-Marquez is an alien, a native and citizen of Mexico with no legal documents to enter into or be in the United States. PENA-Marquez was advised of his Miranda warnings in the Spanish language to which he said he understood and would answer questions without an attorney present.

Mario PENA Marquez stated that he is a citizen and national of Mexico with no legal entry documents to enter, reside, or pass through the United States. PENA-Marquez stated that he had not applied for or obtained the authorization of the Attorney General of the United States or the Secretary of the Department of Homeland Security to reapply for admission to enter the United States. Mario PENA Marquez admitted to being previously deported by an Immigration Judge. Mario PENA Marquez stated that he wanted to go to Calexico to work.